

HEALTH CARE ASSISTANT REGISTRATION ACT

Part 1 - General Provisions

58-62-101. Title.

This chapter is known as the "Health Care Assistant Registration Act."

58-62-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Board" means the Health Care Assistant Registration Board created in Section 58-62-201.
- (2) "Health care assistant" means an individual who:
 - (a) engages in the practice of a health care assistant;
 - (b) is subject to registration under this chapter and is not subject to registration, licensure, or certification under any other chapter of this title; and
 - (c) is not subject to a criminal background check by virtue of being employed by:
 - (i) the Utah State Hospital or the Utah Developmental Center;
 - (ii) a residential treatment or residential support facility as defined in Subsection (4)(b); or
 - (iii) a covered health care facility as defined in Section 26-21-9.5.
- (3) "Practice as a health care assistant" means providing direct personal assistance or care for compensation to an individual who is ill, injured, infirm, developmentally or physically disabled, mentally disabled, or mentally retarded, and who is in a private residence or regulated facility.
- (4) "Regulated facility" means a health care facility subject to licensure under Title 26, Chapter 21, Health Care Facility Licensure and Inspection Act and does not include:
 - (a) the Utah State Hospital or the Utah State Developmental Center;
 - (b) a residential treatment or residential support facility:
 - (i) subject to licensure under Title 62A, Chapter 2, Licensure of Programs and Facilities; and
 - (ii) serving people with disabilities, as defined by Department of Human Services rules; or
 - (c) a covered health care facility as defined in Section 26-21-9.5.
- (5) "Unlawful conduct" is defined in Section 58-1-501.
- (6) "Unprofessional conduct" is defined in Section 58-1-501.

Part 2 - Board

58-62-201. Board.

- (1) There is created the Health Care Assistant Registration Board consisting of seven individuals:
 - (a) one individual representing the Department of Health created in Title 26, chapter 1, Department of Health Organization;
 - (b) an individual serving in a management capacity in a general acute hospital as defined under Section 26-21-2 and licensed under Title 26, Chapter 21, Health Care Facility Licensure and Inspection Act;:
 - (c) one licensed registered nurse employed in training of health care assistants;
 - (d) one registered health care assistant; and
 - (e) three members of the general public who have no financial interest in the ownership or operation of a regulated facility.
- (2) The board shall be appointed and serve in accordance with Section 58-1-201.

- (3) The duties and responsibilities of the board are in accordance with Sections 58-1-202 and 58-1-203.

Part 3 - Registration

58-62-301. Registration - Classifications - Temporary employment prior to registration.

- (1) An individual shall be registered under this chapter in order to engage in practice as a health care assistant, except as provided under Subsection (2) and Section 58-62-304.
- (2)
 - (a) An individual may temporarily engage in practice as a health care assistant for not more than ten consecutive days immediately after being initially employed in the state as a health care assistant, without having submitted a registration application under this chapter. The registration application shall be postmarked not later than the last day of the ten consecutive days referred to in this subsection.
 - (b) An individual may not practice as a health care assistant in this state for more than ten days without having submitted an application for registration.
 - (c) If the application for registration is denied, the applicant shall cease practice in this state as a health care assistant upon receipt of notice of the denial.

58-62-302. Registration qualifications.

An applicant for registration as a health care assistant shall:

- (1) submit an application in a form prescribed by the division;
- (2) pay a fee determined by the department under Section 63-38-3.2;
- (3) certify in writing that he is free from any physical, mental, or emotional condition that will or may reasonably be expected to prevent the applicant from practicing as a health care assistant in compliance with this chapter; and
- (4) may not, within five years immediately prior to application, have any substantiated allegations of abuse, neglect, or misappropriation of client property listed against him on the certified nurse assistant registry maintained by the State Office of Education or on a similar registry maintained in another state in compliance with 42 C.F.R. 483.156.

58-62-303. Term of registration - Expiration - Renewal.

- (1)
 - (a) The division shall issue each registration under this chapter in accordance with a two-year renewal cycle established by division rule.
 - (b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.
- (2) Each registration under this chapter automatically expires on the expiration date on the certificate of registration unless the registrant renews it in accordance with Section 58-1-308.

58-62-304. Exemptions from registration.

In addition to the exemptions from licensure under Section 58-1-307, the following individuals may engage in acts or practices included in the practice of a health care assistant, within the stated limitations, without being registered under this chapter:

- (1) an individual providing gratuitous care for another individual;
- (2) a volunteer, whether or not he receives token compensation other than salary or wages:
 - (a) in programs sponsored or authorized by federal Public Law 93-113; or

- (b) at any regulated facility; and
- (3) individuals providing:
 - (a) services generally considered independent living activities such as preparing meals, shopping for personal items or groceries, managing money, using the telephone, performing housekeeping, and other similar activities not involving direct personal assistance and care as the division may define by rule; and
 - (b) child day care or "baby sitting," whether or not the services are subject to licensure under Title 62A, Chapter 2, Licensure of Programs and Facilities; or
- (4) an individual employed on an intermittent basis to provide a specified limited period of care for an adult or child with disabilities needing regular daily care, in order to allow the relative or other person who is the adult or child's regular and unpaid caretaker respite from his or her caregiver duties regarding the adult or child.

58-62-305. Registrant title.

- (1) An individual registered under this chapter may use any title in his practice as a health care assistant, and a regulated facility or other employer may assign a title to health care assistants it employs, if the title does not cause a reasonable person to believe the registrant is a licensee if any other license classification under Title 58, Occupations and Professions.
- (2) If any issue is raised regarding a title under this section, the division shall determine if the title may be used for health care assistants.

Part 4 - Registration Denial and Discipline

58-62-401. Denial of registration - Disciplinary proceedings.

Grounds for the following under this chapter are under Section 58-1-401:

- (1) refusing to issue a registration;
- (2) refusing to renew a registration;
- (3) revoking, suspending, restricting, or placing on probation a registration;
- (4) issuing a public or private reprimand to a registrant; and
- (5) issuing an order to cease and desist an action in violation of a registration under this chapter.

Part 5 - Unlawful Conduct

58-62-501. Unlawful conduct - Penalty.

An individual who commits an act of unlawful conduct under this chapter is guilty of a class B misdemeanor.

Part 6 - Registry and Division Action

58-62-601. Registry.

- (1) The division shall maintain a registry of health care assistants registered under this chapter. The registry shall comply with the registry requirements of federal Public Law 100-203, Omnibus Budget Reconciliation Act of 1987, as amended.
- (2) The registry shall be available for public inspection during regular business hours of the division.

58-62-602. Notice of dismissal - Division action.

- (1) The division may by rule establish an agreement and procedure with state agencies that receive reports of unlawful or unprofessional conduct by registrants under this chapter to facilitate the agencies' forwarding the reports to the division for action regarding registration under this chapter.
- (2) When the division receives a notice of a registrant's unlawful or unprofessional conduct or the dismissal for cause of a registrant under this chapter, the division shall conduct one or more of the following regarding the alleged grounds for the dismissal, as it determines appropriate:
 - (a) evaluate the information contained in the dismissal and evaluate other information known to the division regarding the registrant;
 - (b) seek any additional information regarding the dismissal that the division finds necessary to its evaluation;
 - (c) determine if the information available justifies an investigation, within the scope of division resources, of the alleged grounds to determine if there is cause to act regarding the registration under this chapter; and
 - (d) conduct an investigation of the allegations for cause.
- (3) Based on the division's findings under Subsection (2) the division shall:
 - (a) close the investigation with a determination that there are no grounds for division action regarding the registration; or
 - (b) conduct one or both of the following:
 - (i) initiate an administrative proceeding under Title 63, Chapter 46b, Administrative Procedures Act, to take action regarding the registration; or
 - (ii) refer the issue for criminal prosecution.

58-62-603. Immunity from liability for reporting.

Any person who reports to any state or local governmental agency an act of unlawful or unprofessional conduct under this chapter is immune from liability to the extent the report is made in good faith and without malice.

**HEALTH CARE ASSISTANT
REGISTRATION ACT**

**Title 58, Chapter 62
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